DETAILED ACTION

1.   This communication is a First Action Non-Final on the merits. Claims 1-22, as

originally filed, are currently pending and have been considered below.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

3.   Claims 1-10 are rejected under 35 U.S.C. 101 because the claimed invention

is directed to non-statutory subject matter.

Claims 1-10 are directed to a system to detect outlying behavior in a network-

based marketplace consisting, essentially, of software modules. The term "module" is

not recited as having corresponding structure in the specification and given its broadest

reasonable interpretation can be construed as nothing more than program code.

Therefore the claims are directed to nothing more than a program code per se and are

non-statutory.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

5.   Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject

matter which applicant regards as the invention.

Claims 1, 11, 21, and 22 recite the limitations "automatically compute peer information associated with a second plurality of sellers, wherein the first plurality of sellers includes the second plurality of sellers, and wherein the peer information is automatically computed from attribute information for the second plurality of sellers; and automatically compare the peer information associated with the second plurality of sellers with attribute information for the first seller". Examiner is unsure what Applicant means by the limitation in these claims. Appropriate clarification is requested.

Claims 10 and 20 recite the limitations "compare first attribute information associated for a first period of time to second attribute information for a second period of time to determine if the first seller is included in the first plurality of sellers, wherein the first and second attribute information is associated with the first seller". Examiner is unsure what Applicant means by the limitation in these claims. Appropriate clarification is requested.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7.   **Claims 1-3, 5, 8, 10, 11-13, 15, 18, and 20-22 are rejected under 35**

U.S.C. 102(e) as being anticipated by Harding et al. (2005/0144052, hereinafter

Harding).

        As per claim 1, Harding discloses "A system to detect outlying behavior in a

network-based marketplace, the system including:

        a collection module to automatically collect attribute information for a first plurality

of sellers that includes a first seller and to store the attribute information in a storage

device" (Fig. 1 discloses a storage device for storing attribute information and ¶ 25

discloses collecting information about a seller's performance, where this information

reflects the sellers attributes);

        "a computing module to automatically compute peer information associated with

a second plurality of sellers, wherein the first plurality of sellers includes the second

plurality of sellers, and wherein the peer information is automatically computed from

attribute information for the second plurality of sellers" (¶ 29-31 discloses computing

seller scores/ratings for the sellers, where the total group of sellers represents the first

group of sellers and where a feedback rating of 1 or 2 denotes sellers with a negative

rating and a rating of 5 denotes sellers with a positive rating; sellers with negative or

positive ratings represent second groups of sellers; Examiner construes the second

group to be a subset of the first group);

        "a comparison module to automatically compare the peer information associated

with the second plurality of sellers with attribute information for the first seller" (¶ 42

discloses comparing scores of the seller to a minimum seller score threshold to determine if sellers are recommended sellers or not);

"and a detection module to automatically detect outlying behavior by the first seller based on the comparison" (¶ 42 discloses determining whether the seller should be designated as a recommended seller, where recommended sellers are outliers).

Claims 11, 21, and 22 recite equivalent limitations to claim 1 and are, therefore, rejected using the same art and rationale as set forth above.

As per claim 2, Harding discloses "the first plurality of sellers includes sellers that have listed an item for sale, via the network-based marketplace, in a first category of items" (Fig. 4 shows a seller that has listed an item for sale in the electronics category).

Claim 12 recites equivalent limitations to claim 2 and is, therefore, rejected using the same art and rationale as set forth above.

As per claim 3, Harding discloses "the attribute information includes at least one of information to open a listing, information to close a listing and feedback information" (¶ 25 discloses feedback information volunteered by buyers).

Claim 13 recites equivalent limitations to claim 3 and is, therefore, rejected using the same art and rationale as set forth above.

As per claim 5, Harding discloses "attribute information includes a plurality of attributes" (¶ 25 lists the various seller attribute information that is collected by the system).

Claim 15 recites equivalent limitations to claim 5 and is, therefore, rejected using the same art and rationale as set forth above.

As per claim 8, Harding discloses "the second plurality of sellers is a high value

peer group, and the comparison to module is to classify first seller is classified as high

value seller" (¶ 46 discloses designating sellers as featured sellers).

Claim 18 recites equivalent limitations to claim 8 and is, therefore, rejected using

the same art and rationale as set forth above.

As per claim 10, Harding discloses, as best understood, "the collection module is

to compare first attribute information associated for a first period of time to second

attribute information for a second period of time to determine if the first seller is included

in the first plurality of sellers, wherein the first and second attribute information is

associated with the first seller" (¶ 29 and 32-33 disclose computing seller scores over a

period of time or measure different factors over different periods of time).

Claim 20 recites equivalent limitations to claim 10 and is, therefore, rejected

using the same art and rationale as set forth above.

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

9.   Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Harding in view of Cheng et al. (2002/0059130, hereinafter Cheng).

As per claim 4, Harding discloses all of the elements of the claimed invention but fails to explicitly disclose "the detection module is to automatically detect at least one of a fraudulent activity and a customer segmentation".

Cheng discloses a method and apparatus to detect fraudulent activities within a network based auction facility (abstract).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the profiling of sellers in a multiple seller marketplace of Harding to include the detection of fraudulent activities as taught by Cheng in order to deter sellers from conducting suspicious transactions in an auction environment.

Claim 14 recites equivalent limitations to claim 4 and is, therefore, rejected using the same art and rationale as set forth above.

10.   Claims 6, 7, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harding.

As per claim 6, Harding discloses computing peer information using statistics (¶ 26 discloses determining seller statistics).

Harding, however, fails to explicitly disclose "computing the peer information as a standard deviation and a mean".

It would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the profiling of sellers in a multiple seller marketplace of Harding to include the computing peer information as a standard deviation and mean

because it is old and well known to use standard deviation and mean to conduct statistical analysis.

Claim 16 recites equivalent limitations to claim 6 and is, therefore, rejected using the same art and rationale as set forth above.

As per claim 7, Harding discloses classifying sellers as recommended sellers (¶ 42).

Harding, however, fails to explicitly disclose "the second plurality of sellers is an average seller peer group, and the comparison module is to classify the first seller as an average seller".

It would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the profiling of sellers in a multiple seller marketplace of Harding to include the classification of sellers as average sellers in order to distinguish average sellers from recommended sellers or below average sellers.

Claim 17 recites equivalent limitations to claim 7 and is, therefore, rejected using the same art and rationale as set forth above.

11.   Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harding in view of Amazon.com (2000).

As per claim 9, Harding discloses all of the elements of the claimed invention but fails to explicitly disclose "the second plurality of sellers is associated with a first country, and the comparison module is to associate the first seller with the first country".

Amazon discloses an online auction having international sites for different countries (pg. 2 via Our International Sites, where the international sites associate international sellers with a particular country).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the profiling of sellers in a multiple seller marketplace of Harding to include the association of sellers with particular countries as taught by Amazon.com in order to facilitate the use of the system by sellers from different countries.

Claim 19 recites equivalent limitations to claim 9 and is, therefore, rejected using the same art and rationale as set forth above.

Conclusion

12.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Meesseman (2004/009833) discloses a administrative support system for a seller using an online auction site. Arora et al. (2002/0013760) discloses a system and method for implementing electronic markets. Arellano (7,162,494) discloses a method and system for distributed user profiling system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CANDICE D. CARTER whose telephone number is (571) 270-5105. The examiner can normally be reached on Monday thru Thursday 7:30am- 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CDC

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